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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Malaysia: proposed amendments to draft resolution A/C.3/48/L.59

Establishment of a United Nations High Commissioner for Human Rights

A. Add the following preambular paragraphs:

1. Reaffirming its commitment to the purposes and principles of the Charter of the United Nations,

2. Emphasizing the responsibilities of all States, in conformity with the Charter of the United Nations, to promote and encourage respect for all human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

3. Emphasizing the need to observe the principles of the Universal Declaration of Human Rights and for the full implementation of the human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development,

4. Considering that the promotion and the protection of all human rights is one of the priorities of the international community,

5. Recalling that one of the purposes of the United Nations enshrined in the Charter is to achieve international cooperation in promoting and encouraging respect for human rights,

6. Reaffirming the commitment contained in Article 56 of the Charter of the United Nations to take joint and separate action in cooperation with the United Nations for the achievement of the principles set forth in Article 55 of the Charter,

7. Aware that all human rights are universal, indivisible, interdependent and interrelated and that, as such, they should be given the same emphasis,

8. Emphasizing the need for the promotion and protection of all human rights to be guided by the principles of impartiality, objectivity and non-selectivity in the spirit of constructive international dialogue and cooperation,

9. Reaffirming its commitment to the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993,

10. Convinced that the World Conference on Human Rights made an important contribution to the cause of human rights and that its recommendations should be implemented as appropriate, through effective action by all States, the competent organs of the United Nations and the specialized agencies, as well as non-governmental organizations,

11. Recognizing that the activities of the United Nations in the field of human rights should be rationalized and enhanced in order to strengthen the United Nations machinery in this field,

12. Acknowledging the importance of strengthening the provision of advisory services and technical assistance by the Centre for Human Rights and other relevant programmes and bodies of the United Nations system for the purpose of the promotion and protection of all human rights,

B. Replace the first preambular paragraph with the following:

13. Reaffirming the necessity for a continued adaptation of the United Nations human rights machinery to the current and future needs in the promotion and protection of human rights and the need to improve their coordination, efficiency and effectiveness, as reflected in the Vienna Declaration and Programme of Action and within the Framework of a balanced and sustainable development for all people,

C. Replace the second preambular paragraph with the following:

14. Determined to strengthen, adapt and streamline the existing mechanisms to promote and protect all human rights and fundamental freedoms while avoiding unnecessary duplications,

D. Add the following preambular paragraph:

15. Reaffirming that the General Assembly, the Economic and Social Council and the Commission on Human Rights are the responsible organs for

decision and policy-making for the promotion and protection of all human rights,

E. Maintain the third preambular paragraph.

F. Replace operative paragraph 1 with the following:

Decides to create the post of the United Nations High Commissioner for Human Rights;

G. Replace the entire annex of L.59 with the following operative paragraphs:

2. Decides that the High Commissioner for Human Rights shall:

(a) Be a person of a high moral standing and personal integrity and shall possess expertise, including in the field of human rights, with a general knowledge and understanding of diverse cultures, necessary for impartial, objective, non-selective and effective performance of the duties of the High Commissioner;

(b) Be appointed by the Secretary-General and approved by the general Assembly, with due regard to geographical rotation, and have a fixed term of four years with a possibility of one renewal for another fixed-term of four years;

(c) Be of the rank of Under-Secretary-General;

3. Decides that the High Commissioner for Human Rights shall:

(a) Function within the framework of the Charter of the United Nations, the Universal Declaration of Human Rights, other international instruments of human rights and international law, including the obligations, within this framework, to respect the sovereignty, territorial integrity and domestic jurisdiction of States and to promote the universal respect and observance of all human rights;

(b) Be guided by the recognition that all human rights, civil, cultural, economic, political and social, are universal, indivisible, interdependent and interrelated and, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

(c) Act within a framework of a balanced and sustainable development for all people without conditions and of securing realization of the right to development as established in the Declaration on the Right to Development;

(d) Act, where the particular interest of a Member State is concerned, at the request and on the basis of the consent of the State concerned;

(e) Demonstrate impartiality, objectivity, non-selectivity and non-politicization in the implementation of his mandate;

(f) Recognize that the use of human rights as a condition for international cooperation for development is incompatible with the promotion and protection of human rights;

4. Decides that the High Commissioner for Human Rights will be the United Nations official with principal responsibility for United Nations human rights activities under the direction of the Secretary-General; within the framework of the overall competence, authority and decisions of the Secretary-General, the General Assembly, the Economic and Social Council and the Commission on Human Rights, the High Commissioner's responsibilities shall include:

(a) Promoting the effective enjoyment of all civil, political, economic, social and cultural rights, including the right to development;

(b) Monitoring the implementation of the Declaration on the Right to Development, inter alia, by working closely with the Working Group on the Right to Development, established by Commission on Human Rights resolution 1993/22 of 4 March 1993, and make recommendations to fulfil the objectives of the Declaration on the Right to Development;

(c) Carrying out the tasks assigned to him/her by the competent bodies of the United Nations system in the field of human rights and to make recommendations to them with a view to improving the promotion and protection of all human rights;

(d) Provision, through the Centre for Human Rights and other appropriate institutions, of advisory services and technical and financial assistance, at the request of the State concerned;

(e) Coordination of relevant United Nations education and public information programmes in the field of human rights;

(f) Playing a catalytic role in promoting the realization of the right to development by mobilizing the support and capabilities of the international financial/development institutions;

(g) Playing an active role in the elimination and prevention of violations of all human rights around the world, as reflected in the Vienna Declaration and Programme of Action;

(h) Remaining, under the direction of the Secretary-General and in accordance with the mandate, in contact with Governments with a view to promoting and protecting all human rights;

(i) Enhancing international cooperation for the promotion and protection of all human rights;

(j) Coordination of the human rights promotion and protection activities throughout the United Nations system;

(k) Rationalization, strengthening and streamlining of the United Nations machinery in the field of human rights, with a view to improving its efficiency and effectiveness;

(l) Overall supervision of the Centre for Human Rights;

5. Requests the High Commissioner for Human Rights to report annually to the Commission on Human Rights, the Economic and Social Council and the General Assembly;

6. Decides that the Office of the High Commissioner for Human Rights shall be located at Geneva and shall have a liaison office in New York;

7. Requests that the Secretary-General provide appropriate staff and resources to enable the High Commissioner to fulfil his/her mandate, without diverting resources from the development programmes and activities of the United Nations;

8. Requests the Secretary-General to report to the General Assembly at its forty-ninth session on the implementation of the present resolution.

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